IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1754 OF 2005

Suman Kumar Jayanand Jha ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. Subhash Jha, i/by Law Global, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

31st March 2005

P.C.:

. Heard Counsel for the parties. Perused the record. I see no reason to depart from the conclusion reached by the lower Court in rejecting the prayer for bail at the instance of the Applicant herein. Mr. Jha for the Applicant, however, vehemently contends that

taking the entire material relied by the prosecution as it is, it would only indicate that four cartridges were found with the Applicant, which were handed over to him by Rajneesh; there is nothing on record to suggest that the Applicant had knowledge about the conspiracy regarding contract killing undertaken by the co-accused to murder Ashwin at the instance of Sanjeev. This submission does not commend to me. There is material on record to suggest that the Applicant was seen in the company of the co-accused and moving along with them on the previous day of the incident. It is seen from the evidence that the Applicant was present when the co-accused met said Sanjeev in his company. For the time being, the material which is relied by the prosecution will have to be accepted as it is, which indicates the complicity of the Applicant in the commission of the offence. The argument advanced on behalf of the Applicant that the Applicant innocently allowed Rajneesh to keep four cartridges cannot be accepted at this stage in the light of the material on record indicating criminal conspiracy. Hence, rejected.

. As prayer for bail is rejected, the concerned Court is directed to expedite the hearing of the trial as High Court Expedited Case.

. During the pendency of investigation, statements under section 164 of the Code recorded by the Magistrate were forwarded in sealed cover. The said statements are original statements, which will have to be returned to the trial Court in sealed cover. The trial Court will consider the efficacy of those statements and pass appropriate orders in that behalf as and when occasion arises. All questions in that behalf are left open.

. Needless to observe that the trial Court shall decide the case on its own merits on the basis of evidence adduced before it uninfluenced by any opinion expressed by this Court for rejecting prayer for bail, or, for that matter, by the lower Court.

(A.M.KHANWILKAR,J.)